THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.2634 OF 1999

21.02.2006

Between:

Rudru Kariyavula Raju, S/o.Venkaiah

… Petitioner

AND

The Special Officer & Competent Authority,

Urban Land Ceilings, Hyderabad

And others

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.2634 OF 1999

ORDER:

The petitioner is owner of land comprised in plot No.3 in survey No.136/D of Somidi Siddhardhanagar in Warangal and plot No.131 in survey No.7 of Salimnagar in Hyderabad, and different plots in Kothapet and Champapet in Hyderabad. As required under Urban Land (Ceiling and Regulation) Act, 1976 (the Act, for brevity), the petitioner filed declaration under Section 6 of the Act before the first respondent herein. After considering the declaration, by a final statement under Section 8(4) of the Act, dated 03.6.1980, the first respondent passed orders determining the surplus urban vacant land held by the petitioner as 1606.59 Sq. meters. The petitioner approached the Government of Andhra Pradesh by making an application under Section 20(1)(h) of the Act seeking exemption. However, by a memo No.2169/UC.I/83-3 dated 22.12.1988, the Government informed the petitioner to renew the request for exemption along with the copy of the order under Section 8(4) read with Section 9 of the Act. In the meanwhile, the Government issued orders in G.O.Ms. No.451 dated 07.5.1987, granting exemption to excess vacant land held by individual upto 10,000 Sq. meters in peripheral areas of urban agglomeration. Be it noted, the same orders were reissued by reason of G.O.Ms.No.733 dated

31.10.1988. Be that as it is, the first respondent, after publishing notice under Section 10(1) of the Act and notification under Section 10(3) of the Act, issued a notice to the petitioner under Section 10(5) of the Act calling upon the petitioner to handover possession of the land. The said notice No.J1/421/76 dated 28.12.1998 is assailed in the present writ petition contending that when once the land in peripheral area stands exempted, the first respondent cannot compel the petitioner to handover possession, as the land is exempted from the purview of the Act.

The first respondent has filed a counter affidavit. The petition averments insofar as filing of the declaration and determination of surplus vacant land are concerned, are not denied. It is however stated that the plot No.1202 at Karmanghat was already acquired under the provisions of the Land Acquisition Act, 1894 (LA Act, for brevity) by the D.M.R.L. for establishing Super Alloys Project and compensation is already paid to the petitioner vide proceedings No.B/736/74, dated 17.11.1975. It is contended by the respondent that G.O.Ms.No.451 dated 07.5.1987 being prospective, the petitioner is not entitled for any benefit thereunder.

The learned Counsel for petitioner and the learned Assistant Government Pleader for Revenue (Assignment) made submissions with reference to various contentions raised in the pleadings. Therefore, it is not necessary to repeat the same.

It is not denied before this Court that G.O.Ms.No.733, dated 31.10.1988 superceded the orders in G.O.Ms.No.451, dated 07.5.1987. As per the said Government Orders, the land situated in peripheral areas of urban agglomeration stand exempted from the provisions of the Act and as a necessary corollary, the same cannot be treated as urban vacant land to attract the provisions of the act. No doubt, the petitioner has filed declaration in respect of the property, which was situated within the urban agglomeration or which was situated outside the urban agglomeration but within the peripheral area. At that time, orders in G.O.Ms.No.733 or its immediate precursor were not in force. However, as held by this Court in **Inuganti Bhavani v Inuganti Girija Devi**, when once the land is situated in peripheral area of an urban agglomeration, the exemption is automatic and even without there being any application for exemption, the owner can claim the benefit of G.O.Ms.No.733 and seek exemption of the land in peripheral area under the provisions of the Act or from the computation, which was earlier made in the declaration. Therefore, it is rightly contended by the learned Counsel for the petitioner that the matter requires reconsideration by the first respondent having regard to the subsequent event i.e., the issue of the G.O. The Court finds considerable force in the submission. Reconsideration by the first respondent does not however mean that the final statement issued under Section 8(4) read with 9 of the Act stands rescinded. It only means that while issuing the final orders, the Special Officer is required to take into consideration the land, which does not fall within the definition of “vacant land” as defined under Section 2(q) of the Act or not. Needless to say that when once the land is exempted by reason of G.O.Ms.No.733, the same cannot be treated as “vacant land”.

Accordingly, the writ petition is allowed. The impugned order is set aside. The matter is remitted to the first respondent to pass appropriate orders keeping in view the

judgment of this Court in **Inuganti Bhavani** (supra) and also observations made herein above. This exercise may be completed, after issuing notice to the petitioner within three months from the date of receipt of a copy of this order. There shall be no order as to costs.

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(**V.V.S.RAO, J**)

February 21, 2006

NOTE:

Dispatch copy of the

Order in one week.

(By order)

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